Agricultural Cooperatives

Agricultural cooperatives (coops) are established by groups of farmers to share resources. Coops provide supplies, including seeds, fertilizers, pesticides, fuel, and/or lubricants to member farms. They also may perform services for member farms, such as pesticide application, delivery of fertilizers or pesticides, delivery of fuels and lubricants, grain storage, equipment maintenance, etc. Agricultural cooperatives face a number of environmental risks. Spills or releases of chemicals or petroleum products can occur during storage at facility sites. Accidents during loading/unloading and transportation of chemicals and petroleum products could also result in impacts to the environment. Application of fertilizers or pesticides at farmer properties can impact the environment at those farms or migrate to third-party properties. Grain storage also presents environmental risks related to dust explosions and from use of fumigants on the grains. Further exposures can stem from the disposal of wastes from these operations.

Environmental Exposures May Include

- Agricultural coops may store large volumes of fertilizer, pesticides or fuels in aboveground storage tanks. Catastrophic failure of an aboveground storage tank caused by an accident or rupture of the tank could cause its contents to enter and breach the secondary containment or exceed the capacity of the secondary containment structure. Releases or spills from storage tanks may also occur during the loading or unloading of contents, from damage to piping systems, or from corrosion or breaches in tank bottoms. Releases can impact soils or groundwater onsite, impact surface waters or natural resources, or migrate to adjacent or nearby properties.

- Cleaning storage tanks, equipment, or vehicles at agricultural coops may generate contaminated wastewater and/or sludge. Wastewater or waste materials may be taken to a non-owned disposal facility or wastewater treatment facility. Spills could occur during cleaning, storage, transport, or transfer from waste storage areas and create environmental risks. Waste generators are responsible to determine if their wastes are hazardous and require special disposal or recycling procedures. Improper waste disposal could lead to environmental liability and/or legal consequences for violating regulatory requirements.

- Air emissions could be generated from various sources at agricultural coops including tanks, silos, idling trucks or during loading/unloading operations. Vapor control devices may not be present or may malfunction, resulting in air emissions that could exceed permit limits, resulting in civil fines and third-party claims.

- Containers (such as drums, totes, or smaller volume containers) of pesticides, motor vehicle fluids, and other chemicals may be stored at agricultural coops. If containers are not provided with secondary containment, or if they are stored on soils, a release could migrate into soils or groundwater or collect in stormwater runoff and migrate to surface waters or offsite properties.

- Accidental releases during transportation of fuels or chemicals to or from agricultural coops due to improper cargo securement, a loose valve or vehicle upsets or overturns can result in claims for cleanup of the roadway and for soil, groundwater, or surface waters impacted by a release. Also, third-party claims could result for bodily injury or property damage from a release.

- Trucks loading and unloading at these facilities can have leaks of fuel or automotive fluids. Also, if a coop stores, uses, or maintains powered farming equipment, fuels and fluids from the equipment could migrate to soil, groundwater, or surface water.

- Anhydrous ammonia is often used by farming operations and may be stored and supplied by agricultural coops. Storage, transfer, and transport of this chemical could result in a release. When released, anhydrous ammonia can form a vapor cloud. Anhydrous ammonia, even in small concentrations in the air, can be extremely irritating to the eyes, throat, and breathing passages. Also, because ammonia boils at a temperature of -28 degrees F, the expanding gas has the potential to freeze human flesh. Therefore, a release could result in third-party bodily injury and property damage claims.

- Stormwater captured in secondary containment structures or coming in to contact with other storage areas at agricultural coop facilities can become impacted with chemicals or petroleum products. If not properly monitored or contained, impacted stormwater could escape the secondary containment and impact soil, groundwater, or surface water.

- Underground storage tanks and oil-water separators can be subject to leaks or spills if they become damaged or cracked, if not adequately monitored, or if not properly maintained. These can impact soils or groundwater and impacts could migrate offsite.

- Some agricultural coops store grain in grain elevators, which are subject to dust explosions. Fine particles of grain may be suspended in the air within the enclosed space of an elevator. If the dispersed particles are in high enough concentration, explosions can occur. These explosions could injure third-parties or result in particulates migrating in stormwater to surface water bodies, impacting natural resources.

- Application of fertilizers or pesticides by agricultural coops at off-site farms can result in off-site services pollution liability risks. Over-application could result soil or groundwater impacts or runoff of chemicals in stormwater to surface water bodies. Also, wind may disperse the chemicals onto adjacent properties, which could impact a crop at a neighboring property, leading to third-party suits.

- Fumigants are often used on grains stored in grain elevators to kill pests in the grain. Many historic fumigants have lost their EPA registration status because of their negative environmental impact or because of toxicity or safety concerns. Past use of these fumigants may have caused environmental impacts at agricultural coop grain storage facilities.

Environmental Pollution Liability Can Provide Coverage For

- On-site cleanup of new and preexisting pollution conditions
- Off-site cleanup of new and preexisting pollution conditions
- Third-party claims for bodily injury and property damage
- Third-party claims for cleanup
- Defense of third-party claims
- Both sudden and gradual pollution conditions
- Aboveground and underground storage tanks
- Loading and unloading
- Emergency response costs
- Civil fines & penalties
- Business interruption resulting from pollution conditions
- First and third-party transportation pollution liability
- Off-site services pollution liability
- Crisis/reputation management
- Non-owned disposal sites
- Natural resource damage claims
- Mold, bacteria, viruses, legionella and more
- Illicit abandonment

Claims Scenarios & Examples

- A valve on an anhydrous ammonia storage tank at an agricultural coop was damaged, resulting in a release of aqueous ammonia. The release caused an evacuation within a one-mile radius of the facility. There were inhalation related injuries to seventy-five people. Five people were sent to intensive care for complications related to lung damage. The business interruption and bodily injury and defense costs exceeded $1M.

- More than 50 farmworkers were exposed to chlorpyrifos that drifted from a mandarin orange orchard into an adjacent cabbage field. A dozen of the workers reported symptoms of vomiting, nausea and fainting, and one had to be taken to the hospital. The agricultural coop, who performed the application of the chemical was sued for third-party bodily injury claims.

- An agricultural coop-owned truck was transporting pesticide to a member farm. During transit, the truck spilled a three-mile trail of pesticide through a farming community, spewing fumes that sent at least 11 people to the hospital and forced evacuation of a trailer park. Emergency response costs, cleanup costs, and third-party claims resulted.

- During filling of a liquid fertilizer aboveground storage tank at an agricultural coop, a valve on the tanker malfunctioned, resulting in the release of 4,500 gallons of liquid fertilizer. The fertilizer migrated into an adjacent field and a nearby stream, resulting in contamination of soil and groundwater at the agricultural coop and at the offsite adjacent field, as well as an algal bloom and fish kill in the stream. The company was required to perform remediation and the business was fined for intangible damages, including natural resource damages.

- An agricultural coop stored diesel fuel in an underground storage tank for fuel supply. The piping from the UST to the dispenser had a crack in a joint that went undetected for an extended period of time. A substantial amount of fuel was released into soil and groundwater. Remediation costs exceeded $600,000.

- A fuel spill resulted from a broken supply line to an aboveground storage tank. The stormwater outlet valve on the secondary containment for the tank was inadvertently left open, and the fuel spill flowed into an irrigation ditch and into a nearby river. The agricultural coop was held responsible for the remediation efforts. Remedial activities included removal of soil, dredging of parts of the river, and implementation of a river sediment monitoring plan. Claim costs were in excess of $2 million.

- Pesticide drifted onto organic crops and led to litigation involving a neighboring farm and the agricultural coop that applied the pesticide. The organic farm owner claimed that the drift from overspray of pesticide on the adjacent farm tainted his crops. Federal regulations specify that “organic” crops, if tainted by pesticide, must be sold at lower, non-organic prices and tainted fields must be removed from organic production for three years. Ultimately, the coop paid the organic farm damages for lost production.

- An agricultural coop stored and sold bulk fertilizers, pesticides and herbicides. An inspection of the facility by a state regulatory agency resulted in finding several fresh spills of liquid and dry fertilizers around the property. Subsequent soil sampling found widespread concentrations of nitrates, sulfates, chlorine, fluoride and other toxins above action levels in soil and groundwater. The facility was issued a notification of discharge and was required to develop a corrective action plan for site cleanup. The company paid over $600,000 in site remediation costs.

- An agricultural coop had numerous grain storage and handling facilities. Until the mid-1980s, a fumigant containing carbon tetrachloride was used onsite to treat the grain and prevent pests. Investigations at the site detected soil and groundwater was contaminated with carbon tetrachloride and other volatile organic compounds. Contaminated groundwater migrated from the site, causing a 4.5-mile long plume, impacting nearby private supply wells. The site has been listed on the National Priorities List for Superfund cleanup.

Final Consideration

Your property can be faced with the cost to defend itself against allegations or legal action from pollution related events, regardless if you are at fault or not. Having the proper insurance coverage in place will help fund the expenses incurred to investigate or defend against a claim or suit and provide you with environmental claims handling expertise.

This environmental risk overview has been developed by Environmental Risk Professionals on behalf of J. Loos & Associates. It is intended to provide the reader with a broad range of potential risks they may encounter and may not reflect all risks associated with their business. To verify available insurance coverage, please consult your insurance representative.

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Insurance and Bonds

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